DOCUMENT RESUME

ED 433 668 EC 307 414

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TITLE	An Overview of the Individuals with Disabilities Education Act Amendments of 1997 (P.L. 105-17): Update 1999. ERIC Digest E576.
INSTITUTION	ERIC Clearinghouse on Disabilities and Gifted Education, Reston, VA.
SPONS AGENCY	National Library of Education (ED/OERI), Washington, DC.
REPORT NO	EDO-99-3
PUB DATE	1999-06-00
NOTE	4p.
CONTRACT	ED-99-CO-26
AVAILABLE FROM	ERIC Clearinghouse on Disabilities and Gifted Education, Council for Exceptional Children, 1920 Association Dr., Reston, VA 20191-1589. Tel: 800-328-0272 (Toll Free); e-mail: ericec@cec.sped.org; Web site: <http://ericec.org>.
PUB TYPE	ERIC Publications (071) -- ERIC Digests in Full Text (073)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Compliance (Legal); Conflict Resolution; *Disabilities; Discipline; Due Process; Early Intervention; Education Work Relationship; Educational Assessment; *Educational Legislation; Elementary Secondary Education; *Federal Legislation; Federal Regulation; Individualized Education Programs; Outcomes of Education; Parent Participation; Preschool Education; Student Educational Objectives; Teacher Education; Transitional Programs
IDENTIFIERS	Amendments; ERIC Digests; Individualized Transition Plans; *Individuals with Disabilities Educ Act Amend 1997

ABSTRACT

This digest summarizes changes in the Individuals with Disabilities Education Act (IDEA) in the reauthorization and amendments of 1997, Public Law 105-17. These changes include: participation of students with disabilities in state and district-wide assessment programs, development and review of the individualized education program (IEP), enhanced parent participation in eligibility and placement decisions, streamlined student evaluation and re-evaluation requirements, a required statement of transition service needs for adolescents, availability of mediation for resolving parent-school differences, standards for disciplinary procedures for students with disabilities, and flexible age limits for identifying young children as developmentally delayed. Highlights of the new law are also identified concerning: outcomes and standards (e.g., establish student performance goals and indicators); evaluations and curriculum (e.g., accommodations and modifications needed for assessment participation), procedural safeguards (e.g., parental access to all records of their child); discipline (e.g., temporary suspension of students with disabilities); early intervention and preschool services (e.g., early intervention services in natural environments); and teacher training and preparation (training for primary grade regular teachers). (DB)

ED 433 668

ERIC DIGEST

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THE COUNCIL FOR EXCEPTIONAL CHILDREN

JUNE 1999

AN OVERVIEW OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997 (P.L. 105-17): UPDATE 1999

by

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June 1999 E576 EDO-99-3

An Overview of the Individuals with Disabilities Education Act Amendments of 1997 (P.L. 105-17): Update 1999

Bernadette Knoblauch and Kathleen McLane

On June 4, 1997, President William J. Clinton signed the bill reauthorizing and amending the Individuals with Disabilities Education Act (IDEA). The bill became Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997. The law is frequently referred to as IDEA '97.

IDEA is organized in four parts: Part A, General Provisions; Part B, Assistance for the Education of All Children with Disabilities (school age/preschool programs); Part C, Infants and Toddlers with Disabilities; and Part D, National Activities to Improve the Education of Children with Disabilities (support programs). P.L. 105-17 retains the major provisions of earlier federal laws in this area, including the assurance of having a free appropriate public education (FAPE) available to all children with disabilities, in the least restrictive environment (LRE), and the guarantee of due-process procedures and procedural safeguards. It also includes modifications to the law. Some of the changes that affect special education practice nationwide include:

- Participation of students with disabilities in state and district-wide assessment (testing) programs, with appropriate accommodations where necessary. The law also includes the development of guidelines, as appropriate, for participation of children with disabilities in alternate assessments, for those children who cannot participate in regular assessments with accommodations and modifications.
- Development and review of the individualized education program (IEP), including increased emphasis on participation of children and youth with disabilities in the general curriculum and the involvement of regular education teachers in developing, reviewing and revising the IEP.
- Enhanced parent participation in eligibility and placement decisions.
- Streamlined student evaluation and re-evaluation requirements.
- Beginning at age 14, and updated annually, a statement of the transition service needs of the student that focuses on the student's courses of study.
- The availability of mediation as a means of more easily resolving parent-school differences. At a minimum, mediation must be available whenever a due-process hearing is requested.
- Disciplinary procedures for students with disabilities, including placement of certain students with disabilities in appropriate interim alternative educational settings for up to 45 days.
- Allowing children ages 3-9 to be identified as developmentally delayed, with the upper age limit at the discretion of the state and the local educational agency. Previously, the developmental delay category was restricted to ages 3-5.

Following are some of the highlights of the new law:

Outcomes and Standards

IDEA '97 requires states to:

- Include students with disabilities in state and district-wide testing programs, with appropriate accommodations when necessary.
- Establish performance goals and indicators for students with disabilities.

Evaluations and Curriculum

In the area of evaluations and IEPs, IDEA '97:

- Requires a statement of any type of individual accommodation or modification that is needed for the student to be able to participate in state- or district-wide assessments of student achievement.
- Requires states to ensure that students with disabilities have access to the general curriculum. If a student will ***not*** be participating with nondisabled children in the regular classroom and extracurricular and other non-academic activities, an explanation in the student's IEP is required.
- Requires at least one regular education teacher of the child to be a member of the IEP team if the student is participating or might be participating in the regular education environment.
- Expressly requires that the IEP address positive behavioral intervention strategies, if appropriate, in the case of a student whose behavior impedes his or her progress.
- Requires state and local educational agencies to ensure that parents are members of any group that makes placement decisions or any other decisions regarding the child.

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- Streamlines the reevaluation process, allowing parents and school districts to identify what additional reevaluation data, if any, are needed.

- Requires informed parental consent for all evaluations. In the case of reevaluations, consent is required unless the school district can demonstrate that it has taken reasonable measures to obtain consent and the parent has failed to respond.

- Requires that parents be informed about the educational progress of their child, by means such as periodic report cards, at least as often as parents of nondisabled children.

- Specifies that a statement of transition services needs relating to the student's course of study be included in the student's IEP, beginning at age 14 and to be updated annually.

- In the case of a child who is blind or visually impaired, provides for instruction in Braille or the use of Braille, unless the IEP team determines, after an evaluation of the child's current and future needs, that Braille instruction or use is not needed.

- Adds "orientation and mobility services" to the definition of related services.

Procedural Safeguards

IDEA' 97:

- Requires that the language used in delivering information to parents about their child's rights be as easily understood as possible.

- Requires that parents be given access to ***all*** records relating to their child, not just those "relevant" records on the identification, evaluation, and educational placement of their child.

- Preserves existing procedural safeguards, such as due process and the right of parents to recover reasonable attorneys' fees and costs if they prevail in administrative or judicial proceedings under IDEA. (But, in most cases, attorneys' fees cannot be reimbursed for IEP meetings.)

- Requires each state to establish a voluntary mediation process, with qualified, impartial mediators who are knowledgeable about mediation techniques as well as special education laws and regulations.

Discipline

IDEA '97:

- Ensures that no student with a disability is denied continuing educational services due to behavior. Schools must continue to provide educational services for students with disabilities whose suspension or expulsion constitutes a change in placement (usually more than 10 days in a school year).

- Gives schools the authority to remove students with disabilities to appropriate interim alternative educational settings (IAES) for behavior related to drugs, guns, and other dangerous weapons for up to 45 days.

- Allows schools to suspend students with disabilities for up to 10 school days to the extent that such alternatives are used for children without disabilities.

- Requires the IEP team to conduct a "manifestation determination" once a disciplinary action for a student with a disability is contemplated. The IEP team must determine—within 10 calendar days after the school decides to discipline a student—whether the student's behavior is related to the disability. If the behavior ***is not*** related to the disability, the student may be disciplined in the same way as a student without a disability, but the appropriate educational services must continue.

- Permits school personnel to report crimes allegedly committed by students with disabilities to law enforcement authorities.

Early Intervention and Preschool Services

In the area of early intervention and preschool services, which is now Part C, IDEA '97:

- Requires that local school districts participate in a transition planning conference for parents of toddlers with disabilities who are about to enter preschool.

- Explicitly calls for delivery of early intervention services in natural environments.

- Clarifies that Part C funds for early intervention services are the payor of last resort.

Teacher Training and Preparation

IDEA '97:

- Creates a new system of grants to improve results for students with disabilities through system reform, emphasizing personnel training and training for regular education teachers of early grades.

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Küpper, L. (Editor). 1998. "The IDEA Amendments of 1997." *NICH News Digest* 26 (Revised edition).

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